

**State of Kansas**  
**Office of the State Bank Commissioner**

**Notice of Hearing on Proposed Administrative Regulations**

March 20, 2014

A public hearing will be conducted on Friday, May 23, 2014 at 11:00 a.m. in the conference room of the Office of the State Bank Commissioner, 700 SW Jackson, Suite 300, Topeka, Kansas to consider the adoption of amendments to K.A.R. 17-11-21.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rule and regulation. All interested parties may submit written comments prior to the hearing to the Office of the State Bank Commissioner, 700 SW Jackson, Suite 300, Topeka, Kansas 66603 or by email to [amber.capoun@osbckansas.org](mailto:amber.capoun@osbckansas.org). All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulation during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Amber Capoun at (785) 296-2266.

The proposed regulation amendments are for adoption on a permanent basis. A copy of the proposed amended regulation and Economic Impact Statement can be obtained by contacting Amber Capoun. A summary of the proposed amendments and the economic impact follows:

**K.A.R. 17-11-21. Appraisals and evaluations.** The proposed amendment to K.A.R. 17-11-21 will delete the requirement a qualified individual be independent of the bank in order to complete an evaluation on the particular types of real estate loans. The intended effect is to allow certified appraisers who have been hired by a bank to complete appraisals, to also be able to complete less complicated evaluations on smaller loans.

There will be no economic impact to the Office of the State Bank Commissioner or other governmental agencies and their employees.

Judi M. Stork  
Acting Bank Commissioner

State of Kansas  
Office of the State Bank Commissioner

Economic Impact Statement  
K.A.R. 17-11-21

**I. Summary of Proposed Amendment to Existing Regulation and the Intended Effect.**

The proposed amendment to K.A.R. 17-11-21 will delete the requirement a qualified individual be independent of the bank in order to complete an evaluation on the particular types of real estate loans. The intended effect is to allow certified appraisers who have been hired by a bank to complete appraisals, to also be able to complete less complicated evaluations on smaller loans.

**II. Whether the Regulation is Mandated by Federal Law.**

This amendment is not mandated by federal law, nor does it exceed the requirements of any applicable federal law.

**III. Anticipated Economic Impact on the Office of the State Bank Commissioner, Other Governmental Agencies, Small Employers, Private Citizens or Consumers.**

There is currently no intended impact on the Office of the State Bank Commissioner or other governmental agencies. The impact will primarily be positive towards banks, many of which may be “small employers” and possibly, through a pass down effect, have a positive effect for citizens and consumers. It is in the interest of a bank to be able to make real estate loans to its customers and offer real estate loans to potential customers at little effort and cost. Kansas Administrative Regulation 17-11-21(a) requires a certified appraisal on every loan over \$25,000. Under the current regulation, an exception is made for small loans still above \$25,000, business loans, and renewals and refinancing. To promote efficiency and save costs, the bank may complete an evaluation in lieu of a full appraisal for these types of loans. An evaluation is often less-involved and less-expensive than a full appraisal. Only a qualified individual who is independent of the bank may complete an evaluation. The illogical result is that bank employed appraisers are forbidden from completing evaluations on certain types of property, whereas any other similarly qualified non-bank employee appraiser could complete the evaluation. Banks that have certified appraisers on staff are then required to either incur additional cost in hiring an individual outside of the bank or incur the cost of doing a full appraisal where it is not required.

**IV. Summary of Alternatives Considered and Why Amendment to the Regulation is Necessary.**

The proposed amendments constitute the least costly and least intrusive option considered for achieving the regulatory intent of protecting the safety and soundness of Kansas banks.

**17-11-21. Appraisals and evaluations.** (a) Except for those transactions that meet the requirements of subsection (b) or (c) ~~of this regulation~~, an accurate appraisal of all real estate mortgaged ~~securing~~ to secure principal debt of \$25,000 or more to a bank ~~or trust company~~ shall be made by an appraiser who is licensed or certified by the state in which the property is located and who is independent of the transaction.

(b) Two officers or directors, or a qualified individual who is ~~independent of the bank or trust company and~~ independent of the transaction, may complete an accurate evaluation of real estate mortgaged in the following types of real estate-related transactions:

(1) Real estate mortgaged ~~securing~~ to secure principal debt of \$250,000 or less;

(2) business loans of \$1 million or less secured by real estate, if the primary source of repayment is not dependent upon the sale of, or rental income from, the real estate; or

(3) renewals or refinancing of loans, in any amount, secured by real estate, if either of the following conditions is met:

(A) There is no advancement of new monies other than funds necessary to cover reasonable closing costs; or

(B) there has been no obvious and material change in market conditions or physical aspects of the property that affects the adequacy of the real estate collateral or the validity of an existing appraisal, even with the advancement of new monies.

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(c) Neither an appraisal nor an evaluation shall be required for the following types of real estate-related transactions:

- (1) Loans that are well supported by income or other collateral if real estate is taken as additional collateral solely in an abundance of caution;
- (2) loans to acquire or invest in real estate if a security interest is not taken in real estate;
- (3) liens taken on real estate to protect rights to, or control over, collateral other than real estate;
- (4) real estate operating leases that are not the equivalent of a purchase or sale; or
- (5) real estate-related loans that have met all appraisal requirements necessary to be sold to, or insured by, a ~~federal~~ United States government, agency or a United States government-sponsored, agency.

(d) ~~The~~ Each individual ~~or individuals~~ who ~~conduct~~ conducts an appraisal or evaluation shall view the premises, make a written statement of value, and sign and file the statement with the bank ~~or trust company~~. ~~The land and improvements shall be appraised separately.~~

(e) ~~Notwithstanding~~ Despite any other provisions of this regulation, an appraisal or evaluation may be required by the commissioner if it is deemed necessary to address safety and soundness concerns. (Authorized by K.S.A. ~~2000~~ 2013 Supp. 9-1713; implementing K.S.A. ~~2000~~ 2013 Supp. 9-1101, as amended by L. 2001, ch. 87, §5, and 9-2103, as amended by L. 2001, ch. 27, §1 and 9-1713; effective Jan. 1, 1966; amended

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May 1, 1978; amended Jan. 27, 1992; amended Oct. 19, 1992; amended Jan. 25, 1993;  
amended Sept. 20, 1993; amended Sept. 19, 1994; amended Aug. 9, 1996; amended Jan.  
18, 2002; amended P-\_\_\_\_\_.)

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